

**MICHIGAN DOMESTIC VIOLENCE PREVENTION
AND TREATMENT BOARD**

**MEETING MINUTES
February 11, 2005**

***** APPROVED – May 20, 2005 *****

Members Present:

Honorable Amy Krause, Chair
Gwendolyn Brown
Shirley Mann Gray
Mary Beth Kur
Lore Rogers

Staff Present:

Debi Cain, Executive Director
Celestine Colton
Deb Felder-Smith
Julie Giddings
Carol Hackett Garagiola
Sarah Heuser

Josie Jubb
Mary Lovik
Barb Mills
Karen Porter
Kae Ross

Guests:

Charlene Batchelor, My Sister's Place/Women's Justice Center (Detroit)
RoAnn Beebe, Nottawaseppi Huron Band of Potawatomi (Fulton)
Patrice Eller, FIA, Adult and Family Services
Tom Evans, MSP
Martha Gonzalez-Cortes, FIA, Migrant Affairs
Kathy Hagenian, MCADSV
Emily Harris, Michigan Battered Women's Clemency Project, University of Michigan
Judy Karandjeff, MI Women's Commission
Mary Keefe, MCADSV
Karina Khalise, Michigan Battered Women's Clemency Project, University of Michigan
Sharon Ott, Family Counseling & Shelter Services (Monroe)
Tom Robertson, PACC
Megan Shuchman, Michigan Battered Women's Clemency Project, University of Michigan
Devin Swanson, 54A District Court
Herb Tanner, PAAM
Alycia Welch, Michigan Battered Women's Clemency Project, University of Michigan

Welcome and Introductions

The February 11, 2005 Michigan Domestic Violence Prevention and Treatment Board (MDVPTB) meeting at the FIA, Grand Tower Building in Lansing, MI, convened at 10:10 a.m. Introductions were made and a welcome extended to guests.

BOARD CONSENT

Review of agenda, approval of December 3, 2004 Board meeting minutes.

MOTION: Moved by S. Mann Gray to approve the February 11, 2005 agenda and approve the December 3, 2004 meeting minutes. Seconded by G. Brown. Motion carried.

CHAIR'S REPORT

A. Krause reported on January being proclaimed Stalking Awareness month by Governor Jennifer M. Granholm. There were a number of radio and television interviews along with some local community efforts to provide information about stalking.

Regarding the training of the Ombudsman office staff on domestic violence, legislation did pass and staff is working diligently with Ombudsman Lynne Martinez on this training.

2004 and 2005 performance evaluation forms for Executive Director D. Cain were distributed to Board members. A. Krause asked that all Board members return their comments to her by March 4, 2005.

The Governance Process and Policy Review: Board Committee Principles and Committee Structure

The Board reviewed the policies. No motion required.

EXECUTIVE DIRECTOR'S REPORT – GENERAL OVERVIEW OF WORK TO DATE

Legislative Report:

D. Cain reported that January grants were submitted for the Formula and Discretionary grants. Grants to Encourage Arrests renewal was submitted for a 2-year extension which would begin 10/1/05. A continuation of the 2 pilot sites that are up north. We're proposing to add a 3rd site. C. Hackett Garagiola and M. Bynum did a huge amount of work pulling things together for this. The Board would like to acknowledge appreciation of M. Bynum and C. Hackett Garagiola's work. Due to change in the Office on Violence Against Women's structure of rural grants, we were able to apply for immediate renewal of our current grant. Also, MDVPTB along with Adult Protective Services and the Office on Aging have offered technical assistance support to three current MDVPTB funded Transitional Supportive Housing projects (Alpena, Grand Rapids, Holland) applying for the new Office on Violence Against Women Transitional Supportive Housing grants. At least a portion of each of the three grants will focus on domestic violence of elderly women.

S. Hankins and M. Lovik have been preparing for the training for family court judges in Mt. Pleasant next week. This is being cosponsored by MDVPTB, MJJ, National Council of Juvenile and Family Court Judges as part of our Safe Havens Supervised Visitation grant. D. Cain would like to acknowledge Judge Sosnick attended training in Santa Fe as preparation for Michigan's training. G. Brown, S. Mann Gray, and L. Rogers participated

in conference calls with D. Cain pertaining to capacity- building in Wayne county. Also thank you to A. Krause for always being available.

Discussion of how best to educate the legislature on the Board's issues. Discussion as to whether and when to hold a legislative reception. Decision to hold the next legislative reception in October during Domestic Violence Awareness Month. D. Cain, M. Lovik and C. Hackett Garagiola met with Ron Hicks to discuss meeting with various legislators/legislative staff. Staff will continue to meet with key legislators and call upon Board members as needed.

Discussion regarding best ways to address legislative issues that arise between Board meetings. While the Executive Director's legislative committee which includes Chair A. Krause, E. Sosnick and L. Rogers, can provide input to the staff, they cannot speak on behalf of the Board. D. Cain will use adopted Board motions and guiding principles to direct staff action between Board meetings. Review and discussion of options between meetings based on the Open Meetings Act. Staff distributed an adopted legislative analysis format that distinguishes the status of action (staff analysis only, board action, etc.).

C. Hackett Garagiola gave an update on SB 120, admissibility of evidence of other acts of domestic violence in domestic violence prosecutions. SB 120 provides that in a criminal action in which a defendant is accused of an "offense involving domestic violence," evidence of the defendant's "other domestic violence" is not made inadmissible under MRE 404 (which, with some exceptions, excludes evidence regarding character and evidence of other crimes, wrongs or acts). SB 120 further provides that the evidence of other domestic violence is not admissible if the evidence is excluded under MRE 403 (which excludes evidence if the probative value is not substantially outweighed by danger of unfair prejudice, confusion of issues, misleading the jury, or by consideration of undue waste of time or needless presentation of cumulative evidence).

MOTION: Moved by S. Mann Gray to support bill with recommended changes. With the following amendments, the Board supports SB 120, as introduced on 2-1-05, providing for admissibility of evidence of other acts of domestic violence in prosecutions for misdemeanor and felony domestic violence crimes. A. While "offense involving domestic violence" is defined in SB 120, "domestic violence" is not defined in the bill. Recommend adding a definition for "domestic violence," and using the same definition as "an offense involving domestic violence." Amend p. 2, line 17 to read " 'DOMESTIC VIOLENCE' OR 'an offense involving domestic violence' means..." "Offense involving domestic violence" refers to the crime with which the defendant is currently charged, that will trigger the applicability of SB 120. "Other domestic violence" refers to the acts of domestic violence, other than the charged offense, that the prosecution wishes to introduce into evidence. So that there is no confusion that evidence of the "other domestic violence" that may be admitted against the defendant is not limited to domestic violence crimes with which defendant was previously charged or convicted, "domestic violence" should be defined in the bill, using the same definition provided for "offense involving domestic violence." B. To be consistent with other definitions of domestic relationships under MI domestic violence laws, the definition of "family or household member" should be amended to include the following. "iv. An individual with whom the person has or has had a dating relationship." Add the definition of "dating relationship" that is found in MCL 600.2950 and other domestic violence and PPO laws. Also, amend p. 2, line 16 to read " iii) an individual with whom the person has HAD a child in common." C. It appears that the definition of "an offense involving domestic violence" is broad enough to cover all abusive acts and crimes committed against a person with whom the perpetrator shares a domestic relationship. Further consideration should be given to whether there are abusive acts or crimes that domestic violence perpetrators commit, and for which domestic violence perpetrators might be prosecuted, that do not fit within that definition. If those acts/crimes are identified, consider amending the definition to cover those acts/crimes. D. Consider amending the requirements regarding prosecutor disclosure of the other domestic violence evidence to include reasonable notice in advance of trial, or during trial if the court excuses the pretrial notice on good cause shown. Seconded by G. Brown. Motion carried.

Discussion of SB 128, Notification to subscriber of sex offender located within 1 mile. SB 128 amends the Sex Offenders Registration Act to require MSP to provide notification by electronic or computerized means to any member of the public who has subscribed in a manner required by MSP, when an individual who is registered on the public database of the sex offender registry changes his or her sex offender registration to a location that is in or not more than one mile from a zip code area designated by the subscribing member of the public. The Board will not take a position right now, but this will continue to be monitored by staff.

Discussion of HB4090, Prohibits parole for repeat sex offenders sentenced to life imprisonment for CSC 1st degree, with prior conviction for CSC 1st, 2nd or 3rd degree. HB 4090 provides that the parole board shall not grant parole to a prisoner sentenced to imprisonment for life for criminal sexual conduct (CSC) first degree, if the individual was previously convicted of CSC 1st, 2nd or 3rd degree. The Board will not take a position right now, but this will continue to be monitored by staff.

Discussed SB 170, with regard to sentencing guidelines. (Tabled until after New Initiatives/Project Updates.)

NEW INITIATIVES/PROJECT UPDATES

Tom Evans, Senior Executive Director with the Michigan State Police gave a presentation on LEIN (Law Enforcement Information Network) Next Generation and Personal Protection Orders (PPO's). LEIN is used worldwide for documenting information. In regards to PPO's the LEIN system does not let officers know the conditions set forth by Judges. Because of this, valuable time is being lost. Right now the Next Generation LEIN is in the preliminary stages with discussion on how to determine what will make it more effective and assist in being better able to respond. Tom will keep the Board posted on this project and thanked MDVPTB for the Grants to Encourage Arrests funding for this important work.

Martha Cortes from FIA, Office of Migrant Affairs gave a presentation about our collaborative efforts to address DV within the migrant worker communities of Michigan. There are concerns about language access issues, relationship with courts and police, various concerns with the farmer and migrant communities. Michigan has the 6th largest migrant worker population in the nation.

Judy Karandjeff, Director of the Michigan Women's Commission gave a presentation about her agency. They are trying to improve life of women in Michigan in keeping women's issues out front. Gave various statistics for women in Michigan. Michigan Women's Commission will continue to collaborate and try to serve as a network. They have a database of 600 women's groups and keep a calendar of all the women's groups/meetings.

PUBLIC COMMENT

The Michigan Battered Women's Clemency Project, The University of Michigan Student Wing, *Giving a Voice Presentation* by students Emily Harris, Karina Khalise, Megan Shuchman, and Alycia Welch gave a brief background of the Michigan Battered Women's Clemency Project. They asked the Board to speak out on behalf of the 20 women of the MI Battered Women's Clemency Project and relay to Governor Granholm the request for clemency.

Herb Tanner reported that he'd been invited to work with the Pennsylvania Coalition Against Rape and the National District Attorney's Association on a grant that they received to develop a national institute on prosecuting sexual violence. This will be beneficial to prosecutors who want to specialize in prosecuting sexual violence.

Legislative Report: (Continued)

Returned to discussion of SB 170, with regard to sentencing guidelines.

MOTION: Moved by L. Rogers for the Board to adopt the following positions concerning SB 170. The Board supports SB 170, as introduced on 2-3-05, adding dating and former dating relationships to MCL 764.1a (issuance of warrants by magistrates in domestic assault/battery cases) and MCL 776.22 (arrest provisions in law enforcement agencies' written domestic violence policies), and including PPOs and FPOs in the fingerprinting and disposition reporting requirements of MCL 769.16a. The Board takes no position regarding the sentencing guidelines provisions included in SB 170, as introduced on 2-3-05. These sentencing guidelines provisions do not include enhanced sentencing guidelines for child witnessing violent crimes, which had been included in HB 5409 ('04). With regard to sentencing guidelines enhancements for child witnessing violence, the Board supports the following general principles. While the concept of protecting children from domestic violence is strongly supported by the Board, national and state experience with similar well-intentioned measures demonstrates that often these well-intentioned measures do not produce or enhance safety or stability for children, and in fact can produce serious negative unintended consequences for battered women who are attempting to provide safety and stability for their children. These unintended consequences can include: increasing penalties for victims of domestic violence who are arrested and prosecuted when they are acting in lawful self defense; proceeding against battered mothers for failure to protect their children from the abuser, when the criminal justice system and other systems have failed to protect the children from the abuser; shifting the focus from taking domestic violence seriously and holding the abuser accountable for the violence, even when children are not exposed to the violence; failing to recognize that the most effective way to protect children from domestic violence is to protect the non-offending parent, by using the criminal and civil justice systems to unequivocally hold the abuser accountable, even when children are not exposed to the violence. For these reasons the Board opposes sentencing guidelines enhancements for child witnessing violence, increased penalties for child witnessing violence, and creating crimes based upon child witnessing violence. Seconded by S. Mann Gray. Motion carried.

**Executive Limitations:
Communication and Counsel to the Board**

The Board reviewed and approved D. Cain's Communication and Counsel to the Board report.

MOTION: Moved by S. Mann Gray to accept Executive Limitation Report: Communication and Counsel to the Board. Seconded by G. Brown. Motion carried.

Draft revisions for the 2nd quarter Executive Limitations Communication and Counsel to the Board to reflect positive language were reviewed.

MOTION: Moved by G. Brown to accept draft language to Executive Limitation Reports: Communication and Counsel to the Board. Seconded by S. Mann Gray. Motion carried.

ADJOURNMENT

The meeting ended at 2:30 p.m.

MOTION: Moved by S. Mann Gray to adjourn the meeting. Seconded by L. Rogers. Motion carried.

Respectfully submitted,
Josie Jubb